IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/07/2003

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.19152 of 2003
and W.P.Nos. 19153 and 19154 of 2003

M.G.Rajamani .. Petitioner in
WP:19152/2003

J.Dharman .. Petitioner in
WP:19153/2003

R.Govindaraju .. Petitioner in
WP:19154/2003
-Vs-

1. The Tamil Nadu State Transport Corporation
(Villupuram Division-II) Ltd.,
Vellore-9, rep. by its
Managing Director.

2. The General Manager
Tamil Nadu State Transport Corporation
(Villupuram Division-II) Ltd.,
Vellore-9.

3. M.Ramamurthy
Enquiry Officer
Office of Tamil Nadu State
Transport Corporation
(Villupuram Division-II) Ltd.,
Vellore-9.

4. R.Krishnamoorthy
Enquiry Officer
Office of Tamil Nadu State
Transport Corporation
(Villupuram Division-II) Ltd.,
Vellore-9. .. Respondents in
all W.Ps.

PRAYER: Petitions under Article 226 of the Constitution of India for issue of writ of Certiorarified Mandamus as stated therein.

For Petitioners : Mr.D.Saravanan

For Respondents : Mr.V.R.Kamalanathan

:ORDER

Aggrieved by the second show cause notice even dated 9.6.2003 issued by the second respondent proposing to dismiss the petitioners from service based on the enquiry report of the enquiry officer, viz., the fourth respondent, dated 11.12.2001 in the case of the petitioner in W.P.No.19152 of 2003, and the enquiry reports even dated 10.12.2001 in the case of the petitioners in W.P.Nos.19153 and 19154 of 2003, pursuant to the disciplinary action initiated against the petitioners for certain serious charges framed against them, the petitioners seek a writ of Certiorarified Mandamus to call for the records relating to the second show cause notices even dated 9.6.2003 made in reference No.181/24639/Sa6/TNSTC/2001 from the file of the second respondent, to quash to same and to consequently forbear the respondents 1 and 2 from in any manner interfering with the petitioners' services as Conductor, Assistant Tradesman and Tradesman respectively, in the first respondent Corporation.

2. According to Mr.D.Saravanan, learned counsel for the petitioners, even though the third respondent was appointed as an Enquiry Officer and had conducted the enquiry on more than 16 occasions, the petitioners are now informed that the fourth respondent in his enquiry report dated 11.12.2001 in the case of the petitioner in W.P.No.19152 of 2 003 and enquiry report dated 10.12.2001 in the case of the petitioners in W.P.Nos.19153 and 19154 of 2003, found that many of the charges framed against the petitioners under charge memo even dated 5.12.2001 were proved. Based on the said enquiry reports dated 11.12.2001 and 10.12.2001, the second respondent issued the impugned second show cause notice even dated 9.6.2003.

3. Mr.D.Saravanan, learned counsel for the petitioners, contended that the appointment of the fourth respondent as enquiry officer in the place of the third respondent was not even intimated to the petitioners. Inter alia, it is contended that even though the petitioners were given opportunity to submit their objections to the enquiry reports, unless the petitioners were given a notice as to appointment of the fourth respondent as Enquiry Officer, the reports of the enquiry officer dated 11.12.2001 and 10.12.2001, become without jurisdiction.

4. Mr.V.R.Kamalanathan, learned counsel for the respondents is not disputing the fact that the appointment of the fourth respondent in the place of the third respondent, on the resignation of the third respondent, was not informed to the petitioners by the respondents 1 and 2 at any point of time.

5. In my considered opinion, even though there is no bar for the respondents 1 and 2 to accept the resignation of the third respondent as enquiry officer and to appoint the fourth respondent in the place of the third respondent as enquiry officer, it may not be proper for the respondents 1 and 2 to permit the fourth respondent to unilaterally file enquiry reports even without any intimation to the petitioners about the appointment of the fourth respondent as enquiry officer. To this extent, the enquiry reports of the

fourth respondent are imperfect and therefore, the same stand quashed and consequently, the second show cause notices even dated 9.6.2003 are also set aside, and the matter is remitted to the second respondent who is at liberty to appoint an enquiry officer in the place of the third respondent under intimation to the petitioners and the enquiry officer so appointed is at liberty either to hold any further enquiry into the matter or to peruse the records relating to the enquiry already conducted by the third respondent and pass appropriate report in the light of the materials available on record. The second respondent, thereafter, shall call for objections to the report of the newly appointed enquiry officer and proceed in accordance with law.

These writ petitions are disposed of accordingly. No costs. Consequently, W.M.P.Nos.23950, 23951 and 23952 of 2003 are closed.

Index :Yes
Internet:Yes

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